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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,447	05/24/2001	Fusao Shimizu	109589	9822

25944            7590            08/29/2003

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ALEXANDRIA, VA 22320

EXAMINER
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SMITH, ZANDRA V

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/863,447	SHIMIZU, FUSAO
	Examiner	Art Unit
	Zandra V. Smith	2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

#### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_ .

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 is/are pending in the application.

    4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 2-5 is/are allowed.

6) Claim(s) 1 is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
    If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) All b) Some \* c) None of:

        1. Certified copies of the priority documents have been received.

        2. Certified copies of the priority documents have been received in Application No. \_\_\_\_ .

        3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    \* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION*****Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by *Dishon et al.*

**(6,166,801).**

As to **claim 1**, Dishon discloses a system useful in photolithographically processing substrates, comprising:

a stage (20) for loading a subject;

an imaging section (22) that forms an image;

a shifting section (24) that implements relative shifting between the imaging section and the subject for measurement to shift the imaging section, the relative shifting being performed by shifting the imaging section without shifting the stage (col. 11, line 40-col. 12, line 6).

***Allowable Subject Matter***

Claims 2-5 are allowable over the prior art of record.

Art Unit: 2877

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, taken alone or in combination, fails to disclose or render obvious, a shape measuring apparatus that includes an aperture in a chassis wherein an end of the measurement section protrudes from the aperture toward the subject to be measured and a dustproof member disposed at the aperture, in combination with the rest of the limitations of claim 2.

Regarding claim 4, the prior art of record, taken alone or in combination, fails to disclose or render obvious a rotation drive section that rotates the illumination section and the light reception section while preserving a mutual positional relationship of the illumination section and the light reception section, without changing the measurement region, in combination with the rest of the limitations of the claim.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

***Ulrich et al. (6,603,103)***

***Fax/Telephone Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zandra V. Smith whose telephone number is (703) 305-7776. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (703)308-4881. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 2877

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-0530.

  
Sandra V. Smith  
Primary Examiner  
Art Unit 2877